IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

Bail Appl..No. 6744 of 2007()

CRIME NO.69 OF 2007 OF SHOLAYUR POLICE STATION

: PETITIONRS/PETITIONERS,ACCUSED 1 TO 7

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1. VIJI @ VIJAYAKUMAR,S/O.CHINNASWAMY
   GROSSERY SHOP, ANAKATTY, MANNARKAD.

2. VANKITAN @ VENKITACHALAM.,
   S/O.MARIMUTHU, ANAKATTY, MANNARKAD.

3. KANNAN,S/O.SAHADEVAN, TEA SHOP,
   ANAKATTY, MANNARKAD.

4. SELVARAJ,S/O.CHENNADURAI,
   AUTO DRIVER, ANAKATTY, MANNARKAD.

5. MOHANAN,S/O.SAHADEVAN, CABLE WORK,
   ANAKATTY, MANNARKAD.

6. SELVAN,S/O.SAHADEVAN,
   GROSSERY SHOP, ANAKATTY, MANNARKAD.

7. GAMBATH @ SAMBATH KUMAR,S/O.SELVARAJ
   TEXTILE SHOP, ANK ANAKATTY, MANNARKAD.

BY ADV. SRI.MANSOOR.B.H.

RESPONDENTS: COMPLAINANT

THE STATION HOUSE OFFICER,SHOLAYUR
POLICE STATION, REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No. 6744 of 2007

Dated this the 6th day of November, 2007

ORDER

Application for anticipatory bail. Petitioners face allegations for offences punishable, inter alia, under Section 3(1)(x) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act. All other offences are bailable. The petitioners apprehend imminent arrest.

2. In view of the jurisdictional bar under Section 18 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, the petitioners cannot obviously claim anticipatory bail from this Court. The learned counsel for the petitioners then submits that the petitioners shall be satisfied if there is a direction to the learned Magistrate to consider the application for bail on merits, in accordance with law and expeditiously - on the date of surrender itself.

3. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339]. It is unnecessary to issue any further specific directions. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously.

4. So far as the claim for bail in a prosecution under Section 3 of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act is concerned, this Court has time and again reiterated that the mere fact that the offence is triable exclusively by a Court of Sessions will not justify abdication of jurisdiction by the Magistrate under Section 437 Cr.P.C. The decisions in **Ali v. State of Kerala** [2000(2) KLT 280], **Shanu v. State of Kerala** [2000(3) KLT 452], **Krishnakumar v. State of Kerala** [2005(1) KLD (Cri.)42] and **P.P.Kader v. State of Kerala** [2005(1) KLD (Cri.)250] have made the position absolutely clear.

5. This application is in these circumstances dismissed, but with the observation that if the petitioners surrender before the learned Magistrate and apply for bail after giving sufficient prior notice to the prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously-on the date of surrender itself in the light of the decisions referred above.

(R.BASANT, JUDGE)

rtr/-